

Superseded 5/12/2015

26-39-404 Disqualified individuals -- Criminal history checks -- Payment of costs.

- (1)
- (a) Each person requesting a residential certificate or to be licensed or to renew a license under this chapter shall submit to the department the name and other identifying information, which shall include fingerprints, of existing, new, and proposed:
 - (i) owners;
 - (ii) directors;
 - (iii) members of the governing body;
 - (iv) employees;
 - (v) providers of care;
 - (vi) volunteers, except parents of children enrolled in the programs; and
 - (vii) all adults residing in a residence where child care is provided.
 - (b) A person seeking renewal of a residential certificate or license under this section is not required to submit fingerprints of an individual referred to in Subsections (1)(a)(i) through (vi), if:
 - (i) the individual has resided in Utah for the last five years and applied for a certificate or license before July 1, 2013;
 - (ii) the individual has:
 - (A) previously submitted fingerprints under this section for a national criminal history record check; and
 - (B) resided in Utah continuously since that time; or
 - (iii) as of May 3, 1999, the individual had one of the relationships under Subsection (1)(a) with a child care provider having a residential certificate or licensed under this section and the individual has resided in Utah continuously since that time.
 - (c)
 - (i) The Utah Division of Criminal Investigation and Technical Services within the Department of Public Safety shall process the information required under Subsection (1)(a) to determine whether the individual has been convicted of any crime.
 - (ii) The Utah Division of Criminal Investigation and Technical Services shall submit fingerprints required under Subsection (1)(a) to the FBI for a national criminal history record check.
 - (iii) The applicant for the license or residential certificate shall pay the cost of conducting a record check under this Subsection (1)(c).
- (2)
- (a) Each person requesting a residential certificate or to be licensed or to renew a license under this chapter shall submit to the department the name and other identifying information of any person age 12 through 17 who resides in the residence where the child care is provided. The identifying information required for a person age 12 through 17 does not include fingerprints.
 - (b) The department shall access the juvenile court records to determine whether a person described in Subsection (1) or (2)(a) has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or misdemeanor if:
 - (i) the person described in Subsection (1) is under the age of 28; or
 - (ii) the person described in Subsection (1) is:
 - (A) over the age of 28; and
 - (B) has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor.
- (3) Except as provided in Subsection (4), a licensee under this chapter may not permit a person who has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance

or diversion agreement for any felony or misdemeanor, or if the provisions of Subsection (2)(b) apply, who has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or a misdemeanor, to:

- (a) provide child care;
 - (b) provide volunteer services for a licensed child care program or a child care program operating under a residential child care certificate;
 - (c) reside at the premises where child care is provided; or
 - (d) function as an owner, director, or member of the governing body of a licensed child care program or a child care program operating under a residential child care certificate.
- (4)
- (a) The department may, by rule, exempt the following from the restrictions of Subsection (3):
 - (i) specific misdemeanors; and
 - (ii) specific acts adjudicated in juvenile court, which if committed by an adult would be misdemeanors.
 - (b) In accordance with criteria established by rule, the executive director may consider and exempt individual cases involving misdemeanors, not otherwise exempt under Subsection (4) (a) from the restrictions of Subsection (3).